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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013 775

13 **ELIZABETH DORNBOS LIVELY**  
14 **a.k.a. ELIZABETH LIVELY**  
1129 T Street, Apt. 3  
Fresno, California 93721

**A C C U S A T I O N**

15 **Registered Nurse License No. 702516**  
16 Respondent.

17 Louise R. Bailey, M.Ed., R.N. ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the Executive  
20 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

21 2. On or about April 24, 2007, the Board issued Registered Nurse License  
22 Number 702516 to Elizabeth Dornbos Lively, also known as Elizabeth Lively ("Respondent").  
23 The Registered Nurse License was in full force and effect at all times relevant to the charges  
24 brought herein and will expire on April 30, 2013, unless renewed.

25 **JURISDICTION**

26 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that  
27 the Board may discipline any licensee, including a licensee holding a temporary or an inactive  
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1 license, for any reason provided in Article 3 (commencing with Code section 2750) of the  
2 Nursing Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not  
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or  
5 to render a decision imposing discipline on the license.

6 5. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a  
7 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the  
8 period within which the license may be renewed, restored, reissued, or reinstated.

### 9 STATUTORY PROVISIONS

10 6. Code section 2761 provides, in pertinent part:

11 The board may take disciplinary action against a certified or licensed nurse or  
12 deny an application for a certificate or license for any of the following:

13 (a) Unprofessional conduct, which includes, but is not limited to, the  
14 following:

15 (4) Denial of licensure, revocation, suspension, restriction, or any other  
16 disciplinary action against a health care professional license or certificate by another  
17 state or territory of the United States, by any other government agency, or by another  
18 California health care professional licensing board. A certified copy of the decision  
19 or judgment shall be conclusive evidence of that action.

20 (f) Conviction of a felony or of any offense substantially related to the  
21 qualifications, functions, and duties of a registered nurse, in which event the record of  
22 the conviction shall be conclusive evidence thereof.

23 7. Code section 2762 states, in pertinent part:

24 In addition to other acts constituting unprofessional conduct within the meaning  
25 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person  
26 licensed under this chapter to do the following:

27 (b) Use any controlled substance as defined in Division 10 (commencing with  
28 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous  
device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner  
dangerous or injurious to himself or herself, any other person, or the public or to the  
extent that such use impairs his or her ability to conduct with safety to the public the  
practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption,  
or self-administration of any of the substances described in subdivisions (a) and (b) of  
this section, or the possession of, or falsification of a record pertaining to, the  
substances described in subdivision (a) of this section, in which event the record of  
the conviction is conclusive evidence thereof.

1 **COST RECOVERY**

2 8. Code section 125.3 provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licentiate found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
7 included in a stipulated settlement.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Out-of-State Discipline)**

10 9. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a)(4),  
11 on the grounds of unprofessional conduct, in that, effective May 11, 2010, in a disciplinary  
12 proceeding before the Arizona State Board of Nursing ("Arizona Board") titled *In the Matter of*  
13 *Registered Nurse License No. RN126055 Issued to: Elizabeth Lively*, Respondent's registered  
14 nurse license was automatically suspended pursuant to the *Consent Agreement and Order No.*  
15 *0805143*. A copy is attached hereto, marked **Exhibit A**, and incorporated herein by reference.  
16 The Arizona Board found that Respondent's conduct including, but not limited to, two  
17 convictions for driving under the influence of alcohol, a conviction for having an open container  
18 of alcohol in a vehicle, possession of marijuana, failure to timely or accurately report to the  
19 Arizona Board her convictions, arrests, citations, or charges, as required, and complaints relating  
20 to Respondent's performance in the work place while employed as a registered nurse, constituted  
21 violation of Arizona statutes and regulations including A.R.S. §§32-1601(16)(d) and (18)(d), 32-  
22 1663(d), and 32-3208(A) and (D).

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Conviction of a Crime)**

25 10. Respondent is subject to discipline under Code section 2761, subdivision (f), in that  
26 on or about April 2, 2012, in the case entitled, *United States of America v. Elizabeth Lively*  
27 (United States District Court, Eastern District of California, 2012, Case No. 6:11-mj-00094-MJS),  
28 Respondent pled guilty to violating 36 Code of Federal Regulations 4.23, subdivision (A)(1)

1 (operating a motor vehicle while under the influence of alcohol to the degree that she was a  
2 danger to herself or others). Said crime is substantially related to the qualifications, functions, or  
3 duties of a licensed registered nurse.

4 a. The underlying circumstances of the crime are that on or about July 28, 2011,  
5 Respondent drove a vehicle in Yosemite National Park while she was under the influence of  
6 alcohol. Respondent admittedly refused to stop her vehicle when she observed the ranger and  
7 security guard waving their hands and flashing lights, signaling her to stop driving.

### 8 **THIRD CAUSE FOR DISCIPLINE**

9 (Dangerous Use of Alcohol)

10 11. Respondent is subject to discipline under Code section 2761, subdivision (a), on the  
11 grounds of unprofessional conduct as defined in Code section 2762, subdivision (b), in that on or  
12 about July 28, 2011, Respondent used an alcoholic beverage to an extent or in a manner  
13 dangerous or injurious to herself and the public when she operated a vehicle while under the  
14 influence of alcohol, as set forth in paragraph 10, above. Respondent admitted to the ranger,  
15 mentioned in paragraph 10.a, above, that she was drunk and should not be driving.

### 16 **FOURTH CAUSE FOR DISCIPLINE**

17 (Conviction Involving the Consumption of Alcohol)

18 12. Respondent is subject to discipline under Code section 2761, subdivision (a), on the  
19 grounds of unprofessional conduct as defined in Code section 2762, subdivision (c), in that on or  
20 about April 2, 2012, Respondent was convicted of a crime involving the consumption of alcohol,  
21 as set forth in paragraph 10, above.

### 22 **PRAYER**

23 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
24 and that following the hearing, the Board of Registered Nursing issue a decision:


25 1. Revoking or suspending Registered Nurse License Number 702516, issued to  
26 Elizabeth Dornbos Lively, also known as Elizabeth Lively;  
27  
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1           2.     Ordering Elizabeth Dornbos Lively, also known as Elizabeth Lively, to pay the Board  
2 of Registered Nursing the reasonable costs of the investigation and enforcement of this case,  
3 pursuant to Code section 125.3; and,

4           3.     Taking such other and further action as deemed necessary and proper.

5  
6 DATED:

March 15, 2013



for LOUISE R. BAILEY, M.ED., R.N.  
Executive Officer  
Board of Registered Nursing  
State of California  
Complainant

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**EXHIBIT A**

*Consent Agreement and Order NO. 0805143*

*In the Matter of Registered Nurse License No. RN126055 Issued to: Elizabeth Lively, Respondent*  
Arizona State Board of Nursing

BEFORE THE ARIZONA STATE BOARD OF NURSING

IN THE MATTER OF REGISTERED  
NURSE LICENSE NO. RN126055  
ISSUED TO:

ELIZABETH LIVELY,  
RESPONDENT

CONSENT AGREEMENT  
AND  
ORDER NO. 0805143

CONSENT AGREEMENT

A complaint charging Elizabeth Lively ("Respondent") with violation of the Nurse Practice Act has been received by the Arizona State Board of Nursing ("Board"). In the interest of a prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements and the responsibilities of the Board, and pursuant to A.R.S. § 41-1092.07(F)(5), the undersigned parties enter into this Consent Agreement as a final disposition of this matter.

Based on the evidence before it, the Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent holds Board issued registered nurse license number RN126055.
2. On or about January 7, 1996, according to Dekalb County Public Safety Department report number N-96-008529, police stopped Respondent for traffic violations. Respondent's blood alcohol concentration ("BAC") was .112.
3. On or about July 1, 1996, in case number 96CO51719, Respondent was convicted, pursuant to a plea of nolo contendere, of driving under the influence ("DUI"), a misdemeanor, in the Dekalb County State Court in DeKalb County, Georgia.
4. On or about May 12, 2007, according to Woodstock Police Department Incident Report number 2007-I0713785, Respondent was the passenger in a vehicle that was pulled over

by police. In the vehicle, police found an open beer container behind the driver's seat, another one behind Respondent's seat. Police also located rolling papers and two plastic wrappers containing suspected marijuana, and three unopened beers in the open area of the console. An officer found a "one hitter" smoking device in Respondent's purse that was still packed with marijuana. Police arrested Respondent and cited her for possession of marijuana less than one ounce, open container, and possession of more than one driver's license. Police observed that Respondent was, "obviously very intoxicated." The driver of the vehicle was also arrested.

5. On or about December 20, 2007, in case number I0713785 Respondent was convicted of open container, a misdemeanor, in the Woodstock Municipal Court in Woodstock, Georgia.

6. Respondent failed to self-report being charged, as required by statute and rule, within ten days of the charges being filed in case number I0713785.

7. On or about August 26, 2007, according to Sebastopol, California, Police Department report number 07-0772, Respondent was stopped for a traffic violation. Respondent admitted that she had consumed wine. Respondent denied feeling any effects of the alcohol. Police arrested Respondent cited her for DUI and DUI with a BAC of .08 or more. A blood test revealed Respondent's BAC was .12.

8. On or about December 17, 2007, in case number SCR-521313, Respondent was convicted, pursuant to a no contest plea, of DUI with a BAC of .08 or more, a misdemeanor, in the Sonoma County Superior Court in Sonoma County, California.

9. Respondent failed to self-report being charged, as required by statute and rule, within ten days of the charges being filed in case number SCR-521313.



10. On or about May 19, 2008, Respondent applied for renewal of RN126055, and disclosed that she had an alcohol or drug related conviction since her last renewal. Based on this information, the Board conducted an investigation.

11. On or about October 9, 2008, Board Staff mailed Respondent a questionnaire with instructions to provide a written explanation and specific court and police records regarding each of her arrests, citations or charges, by October 23, 2008.

12. On or about December 5, 2008, the Board received Respondent's incomplete response to the questionnaires. Respondent failed to provide the police report for the January 7, 1996, incident in Dekalb County Georgia. Respondent failed to provide the police report narrative for her May 12, 2007, citation by the Woodstock Police Department for marijuana and for having an open container of an alcoholic beverage in a vehicle. The reports were independently obtained by the Board. The statements Respondent provided with this response to the questionnaire were inconsistent with the information contained in the reports.

13. From on to about February 21, 2003, to November 26, 2008, Respondent was employed with Nursefinders of Atlanta, Georgia.

14. On or about February 1, 2006, while Respondent was employed with Nursefinders, Respondent was counseled after Emory University/Crawford Long requested that Nursefinders not return Respondent to their facility after there was a complaint at Emory that Respondent was unprofessional with a patient on or about January 27, 2005. Respondent admitted she may have been verbally harsh with the patient and she apologized to Emory.

15. On or about June 14, 2006, while Respondent was employed with Nursefinders, Respondent received an Employee Counseling Notice after Atlanta Medical Center ("AMC") requested that Nursefinders not return Respondent to their facility after two patients at AMC

complained that they did not receive their medications. AMC did not report that there were any missing medications.

16. From on or about July 24, 2006, to November 18, 2008, Respondent was employed with NovaPro/Cross Country Travel of Tampa, Florida. On or about May 5, 2008, Respondent submitted to a drug screen. The results were, "Negative" but "Dilute."

17. From on or about May 21, 2007, to August 19, 2007, Respondent was assigned to Tucson Medical Center in Tucson, Arizona through NovaPro/Cross Country. A performance evaluation for that period of time indicated that Respondent's performance was rated as "Almost Standard" in Adheres to Facility Policies and Procedures, and comments indicate, "No attention to detail. Seems scattered. Documentation poor does not do accurate chart checks and has had narcotic discrepancy."

18. On or about February 12, 2010, Respondent underwent an evaluation by Jacquelyn St. Germaine, Ph.D. According to Dr. St Germaine's report of the evaluation, Respondent's responses to testing placed her on the low probability of having a substance dependence disorder, but Respondent's score on the Defensiveness Scale increased the possibility of the test missing a substance dependant individual. Dr. St. Germaine states that due to inconsistencies in the information Respondent provided to the Board and to Dr. St. Germaine, the results may not be an accurate reflection of current or historical problems or symptoms. Dr. St. Germaine did not recommend that Respondent undergo any counseling or other intervention.

#### CONCLUSIONS OF LAW

Pursuant to A.R.S. §§ 32-1606, 32-1663 and 32-1664, the Board has subject matter and personal jurisdiction in this matter.

The conduct and circumstances described in the paragraphs above constitute sufficient cause pursuant to A.R.S. §32-1663(D) as defined in A.R.S. § 32-1601 (16)(d)(Any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public); (h)(Committing an act that deceives, defrauds or harms the public); and (j)(Violating a rule that is adopted by the Board pursuant to this chapter) (effective May 9, 2002); A.R.S. § 32-1663 (D) as defined in A.R.S. § 32-1601 (18)(d)(Any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public) (effective October 14, 2009); A.R.S. § 32-3208 (A)(A health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after receiving or renewing a license or certificate must notify the health professional's regulatory board in writing within ten working days after the charge is filed); (D)(A health professional who does not comply with the notification requirements of this section commits an act of unprofessional conduct. The health professional's regulatory board may impose a civil penalty of not more than one thousand dollars in addition to other disciplinary action it takes) (effective September 18, 2003); A.A.C. R4-19-403(B)(7)(Failing to maintain for a patient a record that accurately reflects the nursing assessment, care, treatment, and other nursing services provided to the patient); (9)(Failing to take appropriate action to safeguard a patient's welfare or follow policies and procedures of the nurse's employer designed to safeguard the patient); (12)(Assuming patient care responsibilities that the nurse lacks the education to perform, for which the nurse has failed to maintain nursing competence, or that are outside the scope of practice of the nurse); (17)(A pattern of using or being under the influence of alcohol, drugs, or a similar substance to the extent that judgment may be impaired and nursing practice detrimentally affected, or while on duty in any health care facility, school, institution, or other work location); (18)(Obtaining, possessing, administering, or using any

narcotic, controlled substance, or illegal drug in violation of any federal or state criminal law, or in violation of the policy of any health care facility, school, institution, or other work location at which the nurse practices); (26)(Making a written false or inaccurate statement to the Board or the Board's designee in the course of an investigation); (28)(If a licensee or Respondent is charged with a felony or a misdemeanor involving conduct that may affect patient safety, failing to notify the Board in writing, as required under A.R.S. § 32-3208, within 10 days of being charged. The licensee or Respondent shall include the following in the notification):

(28)(a)(Name, address, telephone number, social security number, and license number, if applicable);(28)(b)(Date of the charge; and);(28)(c)(Nature of the offense); and (31)(Practicing in any other manner that gives the Board reasonable cause to believe the health of a patient or the public may be harmed)(adopted effective November 13, 2005), to impose discipline on the registered license number RN126055. However, in lieu of a formal hearing on these issues, Respondent agrees to the issuance of the following Order and irrevocably waives all rights to a hearing, rehearing, appeal, or judicial review relating to the Findings of Fact, Conclusions of Law, and Order.

Respondent admits the Board's Findings of Fact and Conclusions of Law.

Respondent understands that all investigative materials prepared or received by the Board concerning these violations and all notices and pleadings relating thereto may be retained in the Board's file concerning this matter.

Respondent understands that the Findings of Fact, Conclusions of Law and Order are conclusive evidence of a prior violation of the Nurse Practice Act and may be used for purposes of determining sanctions in any future disciplinary matter.

BOARD OF REGISTERED NURSES

Respondent understands that this Consent Agreement is effective upon its acceptance by the Board and by Respondent as evidenced by the respective signatures thereto. Respondent's signature obtained via facsimile shall have the same effect as an original signature. Once signed by the Respondent, the agreement cannot be withdrawn without the Board's approval or by stipulation between the Respondent and the Board's designee. The effective date of this Order is the date the Consent Agreement is signed by the Board and by Respondent. If the Consent Agreement is signed on different dates, the later date is the effective date.

2010 OCT 13 PM 12:10  
Elizabeth Lively  
Elizabeth Lively, Respondent  
Dated: October May 11, 2010

ARIZONA STATE BOARD OF NURSING

SEAL

Joey Ridenour R.N. M.N. F.A.A.N.  
Joey Ridenour, R.N., M.N., F.A.A.N.  
Executive Director

Dated: March 23, 2010

### ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the parties agree to the provisions and penalties imposed as follows:

- A. Respondent's consent to the terms and conditions of the Order and waiver of public hearing are accepted.
- B. Respondent shall be assessed a Civil Penalty in the amount of \$250.00.

(1) Respondent shall pay the Civil Penalty, in full, via cash, cashier's check or money order within sixty (60) days from the effective date of the Consent Agreement and Order.

(2) If Respondent fails to pay the Civil Penalty, in the manner stated in paragraph B.(1), above, Respondent's registered nursing license shall be AUTOMATICALLY SUSPENDED. The suspension of the registered nursing license shall continue until one of the following events occurs:

(a) the Civil Penalty is paid in full:

(b) one calendar year from the due date stated in paragraph B.(1) has expired. If Respondent fails to pay the Civil Penalty, in full, within one year from the due date stated in paragraph B. (1), above, Respondent's registered nursing license shall be AUTOMATICALLY REVOKED for a minimum period of five years, pursuant to A.R.S. § 32-1664(N).

Respondent agrees to waive any hearing, rehearing and all appeal rights or remedies regarding any suspension or revocation imposed pursuant to this paragraph.

C. This Order becomes effective upon the Board and Respondent's acceptance of the Consent Agreement. The effective date of this Order is the date the Consent Agreement is signed by the Board and by Respondent. If the Consent Agreement is signed on different dates, the later date is the effective date.

D. Respondent shall obey all federal, state and local laws, and all laws/rules governing the practice of nursing in this state. Offenses such as driving under the influence may

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subject Respondent to further disciplinary action, however, commission of minor civil moving traffic violations are excluded.

SEAL

ARIZONA STATE BOARD OF NURSING

*Joey Ridenour R.N. M.N. F.A.A.N.*

Joey Ridenour, R.N., M.N., F.A.A.N.  
Executive Director

Dated: March 23, 2010

JR/KO:eg

COPY mailed this 13<sup>th</sup> day April, 2010, by First Class Mail to:

Elizabeth Lively  
P.O. Box 294  
Monte Rio, CA 95462

By: Esther Garcia